



REPUBLIC OF KENYA



KENYA LAW

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Ethics & Anti-Corruption Commission v Facta Costruction Co. Ltd & 17 others; Gichaba & 20 others (Interested Parties) (Environment & Land Case 578, 579, 580, 583 & 584 of 2012 & 458 of 2013 (Consolidated)) [2023] KEELC 21151 (KLR) (30 October 2023) (Ruling)

Neutral citation: [2023] KEELC 21151 (KLR)

REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT ELDORET
ENVIRONMENT & LAND CASE 578, 579, 580,
583 & 584 OF 2012 & 458 OF 2013 (CONSOLIDATED)

EO OBAGA, J
OCTOBER 30, 2023

BETWEEN

ETHICS & ANTI-CORRUPTION COMMISSION PLAINTIFF

AND

FACTA COSTRUCTION CO. LTD 1ST DEFENDANT
WILSON KIPKOSGEI MANA 2ND DEFENDANT
RAYMOND KIMELY 3RD DEFENDANT
JOSEPH NJOGU NJUGUNA 4TH DEFENDANT
HEMAN KUMAR PAVANI 5TH DEFENDANT
RAMJI DEVJI VEKARIA 6TH DEFENDANT
KIPNGETICH LELMEN 7TH DEFENDANT
LIMMAG INVESTMENT CO. LTD 8TH DEFENDANT
LINUS KIPLANGAT LETTING 9TH DEFENDANT
CECILIA CHEPKOECH LETING 10TH DEFENDANT
BROADWAY EDIBLE OIL PLANT1 LTD 11TH DEFENDANT
SILAS KIPTUI 12TH DEFENDANT
ZEDDIE JEPTOO KIPTOO 13TH DEFENDANT
NORMAN MUMO JEREMIAH 14TH DEFENDANT
ABDUL AZIZ KANJI 15TH DEFENDANT
JOB KIPNANDI CHEBON 16TH DEFENDANT



WILSON GACANJA 17TH DEFENDANT
SAMMY K. MWAITA 18TH DEFENDANT

AND

PETERSON GICHABA INTERESTED PARTY
SAMUEL OMBIRO INTERESTED PARTY
DOUGLAS KAROKI INTERESTED PARTY
SALOME ORORA INTERESTED PARTY
RUTH WAMBUI INTERESTED PARTY
ABDALA YUSUF INTERESTED PARTY
OBED KEMEI INTERESTED PARTY
HUSSEIN E. SARANA INTERESTED PARTY
CHRISTOPHER MISISRE INTERESTED PARTY
JOHN WAINAINA INTERESTED PARTY
ELIJAH GESUSU INTERESTED PARTY
P.A.G CHURCH INTERESTED PARTY
RADION NTABO INTERESTED PARTY
PAUL N. MICHIRA INTERESTED PARTY
JONEA N. OGOCHI INTERESTED PARTY
AMINA OMAR INTERESTED PARTY
MARY NGENDO INTERESTED PARTY
JACKLINE IMIJA INTERESTED PARTY
ADEN MOHAMED INTERESTED PARTY
PAUL MONGARE INTERESTED PARTY
CHARLES A. INDECHE INTERESTED PARTY

RULING

1. This is a ruling in respect of a Notice of Motion dated 12th April, 2021 in which twenty-one proposed interested parties are seeking to be joined in this consolidated suit on the ground that they purchased various portions from the 15th Defendant. They purchased their portions from LR No. Eldoret/ Municipality Block 15/1819. They are also seeking for leave to file a response in this case by filing an affidavit.
2. The proposed interested parties state that they are innocent purchasers for value without any notice of any defect in the title held by the 15th Defendant. A look at the sale agreements show that it is only seven proposed interested parties who purchased their portions from Nyachiro & Company Advocates who had authority to sell the plots on behalf of the 15th Defendant. The seven purchased their portions



between 21/6/2004 and 15/1/2007. The 1st Proposed Interested party purchased a second plot on 19/1/2021 from Bernard Nyagaka Ogari.

3. The rest of the proposed Interested parties did not file a single document to show what interest they have in the land held by the 15th Defendant.
4. The Plaintiff/Respondent filed a replying affidavit in which it contends that indeed it is only seven proposed interested parties who filed copies of sale agreements. They did not file any copies of receipts to show that they paid for those plots. The Plaintiff/Respondent also argued that the proposed Interested parties will bring no value to the case which will assist the court to determine this suit. It was further contended that the 15th Defendant has title and is in a position to defend his case without the proposed Interested parties being joined in this suit.
5. I have carefully considered the proposed Interested parties' application as well as submissions filed by them. The authorities cited show that an Interested party should demonstrate sufficient legal interest and that he/she will be affected in a particular way if he/she is not joined. Besides this, it has to be shown that the joinder will assist the court to determine the issue with finality.
6. In the instant case, the 15th Defendant is represented by counsel. The court will address the issues in controversy without necessarily allowing the proposed interested parties to this suit. This case was filed in 2009. It was later consolidated with about six others. If the proposed Interested parties were keen on pursuing titles, the 15th Interested parties would have had the 15th Defendant's land subdivided so that they would be having titles even before the cases were filed which would have then given them sufficient legal interest as to call for their joinder in this case. Otherwise I do not find any merit in his application which is dismissed with costs to the Plaintiff/Respondent.

It is so ordered.

DATED, SIGNED AND DELIVERED AT ELDORET ON THIS 30TH DAY OF OCTOBER, 2023.

E. O. OBAGA

JUDGE

In the virtual presence of;

M/s Kavita for M/s Githinji for Plaintiff/Respondent.

M/s Kosgei for M/s Omboto for proposed Interested parties.

Court Assistant –Laban

E. O. OBAGA

JUDGE

30TH OCTOBER, 2023

